

RECORDATION NO. 28013 FILED

AUG 18 '09 -11 00 AM

**SURFACE TRANSPORTATION BOARD**

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ELIAS C. ALVORD (1942)  
ELLSWORTH C. ALVORD (1964)

OF COUNSEL  
URBAN A. LESTER

August 18, 2009

Anne K. Quinlan, Esquire  
Acting Secretary  
Surface Transportation Board  
395 E Street, S.W.  
Washington, D.C. 20423-0001

Dear Ms. Quinlan:

Enclosed for recordation pursuant to the provisions of 49 U.S.C. Section 11301(a) are two (2) copies of an Assignment and Assumption Agreement, dated as of August 17, a primary document as defined in the Board's Rules for the Recordation of Documents.

The names and addresses of the parties to the enclosed document are:

Seller/ Assignor:	JAIX Leasing Company Two North Riverside Plaza, Suite 1250 Chicago, IL 60606
Buyer/Assignee:	Wells Fargo Equipment Finance, Inc. 733 Marquette Avenue So., Suite 700, Minneapolis, MN 55402

Anne K. Quinlan, Esquire  
August 18, 2009  
Page 2

A description of the railroad equipment covered by the enclosed document  
is:

120 railcars: JEPX 91001 - JEPX 91120.

A short summary of the document to appear in the index is:

Assignment and Assumption Agreement.

Also enclosed is a check in the amount of \$41.00 payable to the order of  
the Surface Transportation Board covering the required recordation fee.

Kindly return stamped copies of the enclosed document to the  
undersigned.

Very truly yours,

A handwritten signature in black ink, appearing to read 'R. Alvord', with a stylized flourish at the end.

Robert W Alvord

RWA/sem  
Enclosures

AUG 18 '09 -11 00 AM

## SURFACE TRANSPORTATION BOARD

ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT (the "Assignment Agreement") is made and entered into as of August 17, 2009, by JAIX LEASING COMPANY, a Delaware corporation ("Assignor"), and WELLS FARGO EQUIPMENT FINANCE, INC., a Minnesota corporation ("Assignee"), with reference to the following:

WHEREAS, Assignor and Assignee have entered into a Purchase Agreement, dated as of August 17, 2009 (the "Purchase Agreement"), pursuant to which Assignor shall sell, assign, transfer and convey to Assignee, and Assignor shall purchase, receive and accept, all of Assignor's right, title and interest in and to 120 rotary aluminum AutoFlood III™ cars (the "Cars") described in Appendix 1 hereto (the "Railcars"); and

WHEREAS, with respect to periods commencing on and after the date hereof, Assignor desires to sell and assign to Assignee all of Assignor's right, title and interest in and to the Railroad Coal Car Net Lease Agreement dated as of March 20, 2009 (the "Equipment Lease") between Duke Energy Indiana, Inc. and Assignor and Rider 1 thereto dated March 20, 2009 ("Rider 1"; Rider 1, together with the Equipment Lease as it pertains only the Cars and the Certificate of Acceptance from the Lessee dated July 21, 2009 whereby Lessee certified that it accepted the Cars in accordance with the Equipment Lease as of May 22, 2009, are hereinafter collectively referred to as the "Lease"), to the extent relating to the Railcars, and Assignee desires to acquire such right, title and interest in and to the Lease and to assume Assignor's obligations under the Lease.

NOW, THEREFORE, in consideration of the promises herein made and subject to the terms and conditions herein set forth, the parties hereto agree as follows:

1. Definitions. Capitalized terms used but not defined herein shall have the meanings specified in the Purchase Agreement.

2. Assignment. Assignor hereby sells, assigns, transfers and conveys to Assignee all of Assignor's right, title and interest in and to the Lease, with respect to periods commencing on and after the date hereof. The assigned rights shall include, without limitation, all of Seller's rights and claims with respect to any loss or damage to any Car which is sustained on or after the date hereof.

3. Assumption. Assignee hereby accepts the foregoing assignment, and with respect to periods commencing on and after the date hereof, hereby consents that it shall be a party to the Lease and Assignee hereby assumes, with respect to the period commencing on the date hereof, Assignor's obligations under the Lease and agrees, to such extent, to be bound by all of the terms of the Lease.

4. Allocation of Revenues and Expenses. Expenses and revenues under the Lease are to be allocated in accordance with the provisions of Section 5 of the Purchase Agreement.

5. Counterparts. This Assignment Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

6. Successors and Assigns. The terms of this Assignment Agreement shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors and assigns.

7. Governing Law. This Assignment Agreement shall be construed and enforced in accordance with the laws of the State of Illinois without regard to its conflict of laws doctrine.

8. Further Assurances. Each party agrees that from time to time after the date hereof, it shall execute and deliver or cause to be executed and delivered such instruments, documents and papers, and take all such further action as may be reasonably required in order to consummate more effectively the purposes of this Assignment Agreement and to implement the transactions contemplated hereby.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have caused this Assignment Agreement to be duly executed and delivered by their respective officers thereunto duly authorized as of the day and year first above written.

ASSIGNOR:

ASSIGNEE:

JAIX LEASING COMPANY

WELLS FARGO EQUIPMENT FINANCE, INC.

By. Theodore W. Baun  
Theodore W. Baun  
Vice President

By. Julie L. Milbrath  
Julie L. Milbrath  
Assistant Vice President

STATE OF Illinois )  
CITY/COUNTY OF Cook ) SS:

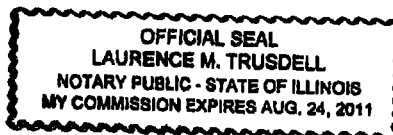
On this 6<sup>th</sup> day of August, 2009, before me, a Notary Public of the City/County and State aforesaid, personally appeared Theodore W. Baun, to me personally known, who being by me duly sworn, says that he is the Vice President of JAIX LEASING COMPANY, a Delaware corporation, that the seal affixed to the foregoing instrument is the seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

AS WITNESS my hand and notarial seal

Laurence M. Trusdell  
Notary Public

My commission expires:

August 24, 2011



IN WITNESS WHEREOF, the parties hereto have caused this Assignment Agreement to be duly executed and delivered by their respective officers thereunto duly authorized as of the day and year first above written.

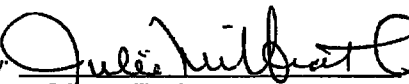
ASSIGNOR.

ASSIGNEE

JAIX LEASING COMPANY

WELLS FARGO EQUIPMENT FINANCE, INC.

By: \_\_\_\_\_  
Theodore W Baun  
Vice President

By:   
Julie L. Milbrath  
Assistant Vice President

STATE OF \_\_\_\_\_ )  
 ) SS:  
CITY/COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_ day of August, 2009, before me, a Notary Public of the City/County and State aforesaid, personally appeared Theodore W. Baun, to me personally known, who being by me duly sworn, says that he is the Vice President of JAIX LEASING COMPANY, a Delaware corporation, that the seal affixed to the foregoing instrument is the seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation

AS WITNESS my hand and notarial seal

\_\_\_\_\_  
Notary Public

My commission expires.

STATE OF MINNESOTA )  
CITY/COUNTY OF ANOKA ) SS.

On this 10<sup>th</sup> day of August, 2009, before me, a Notary Public of the City/County and State aforesaid, personally appeared Julia L. Milbrath, to me personally known, who being by me duly sworn, says that she is the Assistant Vice President of Wells Fargo Equipment Finance, Inc., a Minnesota corporation, that the seal affixed to the foregoing instrument is the seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and she acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

AS WITNESS my hand and notarial seal

DR. L.C.  
Notary Public

My commission expires. 1/31/2013



**APPENDIX 1  
TO THE  
ASSIGNMENT AND ASSUMPTION AGREEMENT**

Description	Number of Cars	Car Marks and Numbers
Rotary Aluminum AutoFlood III™ newly manufactured in 2009 by Freight Car America	120	JEPX 091001 - JEPX 091120 (both inclusive)



CERTIFICATION

I, Robert W. Alvord, attorney licensed to practice in the State of New York and the District of Columbia, do hereby certify under penalty of perjury that I have compared the attached copy with the original thereof and have found the copy to be complete and identical in all respects to the original document.

Dated

8/18/09



\_\_\_\_\_  
Robert W Alvord